

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

JOHN MICHAEL HELMIERE
Plaintiff,

vs

CITY OF SEATTLE, ROBERT N. BESAW, in
his individual and official capacities, JOHN
DOES 1-5, in their individual and official
capacities,
Defendants

Civil No. 2:14-cv-1875

COMPLAINT

JURY DEMAND

I. PARTIES

1.1 Plaintiff John Michael Helmiere is a citizen of the United States and a resident of Seattle, in King County, Washington.

1.2 The City of Seattle is a municipal corporation in the State of Washington. Under its authority from the laws of the State of Washington, the City of Seattle operates the Seattle Police Department.

1.3 Robert N. Besaw was an officer of the Seattle Police Department at all relevant times. Upon information and belief, Defendant Besaw is believed to reside in the State of Washington. In committing the acts and omissions alleged, Defendant Besaw was acting under color of state

1 law and within the course and scope of his employment as an officer in the Seattle Police
2 Department. Defendant Besaw is sued in his official and individual capacities.

3 1.4 John Does 1-5 are unknown agents of the City of Seattle and/or the Seattle Police
4 Department. The residence of John Does 1-5 is unknown. Upon information and belief, John
5 Does 1-5 reside in the State of Washington.

6 **II. JURISDICTION AND VENUE**

7 2.1 This action is brought pursuant to 42 U.S.C. § 1983 for violations of the First, Fourth,
8 and Fourteenth Amendments to the United States Constitution.

9 2.2 The court has jurisdiction over this action under 28 U.S.C. §§ 1331 and 1343.

10 2.3 The claims alleged herein arose in the City of Seattle, County of King, Washington.

11 2.4 Venue in the Western District of Washington, Seattle courthouse, is proper pursuant to 28
12 U.S.C. §1391(b)(2).

13 **III. FACTS**

14 3.1 On December 12, 2011, demonstrators gathered at Terminal 18, at Southwest Spokane
15 Street and Klickitat Street Southwest in Seattle, Washington.

16 3.2 Plaintiff is a United Methodist minister, and attended the demonstration as a peaceful
17 observer.

18 3.3 Police attempted to break up the demonstration, resulting in conflict between police and
19 some demonstrators.

20 3.4 Plaintiff was intimidated by the police demonstration of force, causing him to abandon
21 his first amendment activities to comply with police demands to move from the site of the
22 demonstration.
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1 3.5 Plaintiff was struck with a bicycle by John Doe 1-5, Seattle Police Officers or other
2 agents of the Seattle Police Department.

3 3.6 Plaintiff, in an effort to prevent violence, repeatedly shouted to demonstrators "Keep the
4 Peace! Keep the Peace!"

5 3.7 Plaintiff was confronted by John Doe 1-5, a police officer, who then shoved Mr.
6 Helmiere.

7 3.8 Plaintiff was tackled to the ground by Defendant Besaw and/or John Does 1-5.

8 3.9 Defendant Besaw or John Does 1-5 pinned plaintiff to the ground by shoving a knee into
9 his back and immobilizing his arms. Plaintiff did not physically resist at any point.

10 3.10 Defendant Besaw or John Does 1-5 repeatedly punched Plaintiff in the left side of his
11 face, causing bruises, abrasions, and psychological torment.

12 3.11 Defendants Besaw and John Doe 1-5 intentionally or recklessly wrote false statements or
13 intentionally or recklessly provided false information to other officers in order to provide a
14 sworn declaration for the purpose of requesting a judicial officer to determine whether probable
15 cause existed to charge Plaintiff with a crime.

16 3.12 False information provided by Defendants Besaw and John Does 1-5 caused Plaintiff to
17 be incarcerated, and subsequently caused criminal charges to be filed against Plaintiff.

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20 **IV. CAUSES OF ACTION**

21 4.1 The plaintiff brings his claims under the federal statute, 42 U.S.C. § 1983, which
22 provides that any person or persons who, under color of law, deprives another of any rights,
23 privileges, or immunities secured by the Constitution or laws of the United States shall be liable
24 to the injured party.

1 4.2 The defendant(s) acted under color of law.

2 4.3 The acts of the defendant(s) deprived the plaintiff of his particular rights under the United
3 States Constitution.

4 4.4 Under color of law, the acts complained of constitute wrongful arrest and malicious
5 prosecution, excessive use of force, and a violation of the First Amendment.

6 **V. REQUEST FOR RELIEF**

7 5.1 Compensatory damages.

8 5.2 Punitive damages against individual defendants.

9 5.3 Attorneys' fees and costs pursuant to 42 U.S.C. § 1988 and/or as otherwise authorized by
10 statute or law.

11 5.4 For such other and further relief as the court deems just and proper.

12 Date: December 10, 2014

13 /s/ Kenan Isitt

14 Kenan Isitt, WSBA# 35317

15 /s/ Christopher Carney

16 Christopher Carney, WSBA# 30325

17 /s/ Sean Gillespie

18 Sean Gillespie, WSBA#

19 Attorneys for Plaintiff John Helmiere